

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-MV/LFG

RIO CHAMA STREAM SYSTEM

Section 7, Village of Chama

NOTICE AND ORDER TO SHOW CAUSE

TO ALL CLAIMANTS, KNOWN AND UNKNOWN, WHO CLAIM A RIGHT TO USE THE SURFACE OR UNDERGROUND WATERS OF THE VILLAGE OF CHAMA SUBSECTION OF SECTION 7 OF THE RIO CHAMA STREAM SYSTEM.

AND TO ALL OF THE FOLLOWING WHO CLAIM A RIGHT TO USE SURFACE OR GROUND WATER IN THE VILLAGE OF CHAMA SUBSECTION OF SECTION 7 OF THE RIO CHAMA STREAM SYSTEM FOR IRRIGATION PURPOSES AND WHOSE NAMES APPEAR BELOW:

CHAMA TOWN DITCH

PRIORITY 1899

Defendants: Vera Alcon, Deborah I. Allison, Archdiocese of Santa Fe, Elizabeth G. Atencio, John D. Beaver, Susan J. Beaver, Benjamin F. Branch, John Bush, Verleen Bush, Esther Deyapp, Frances S. Deyapp, Larry Deyapp, Larry H. Deyapp Jr., Robert M. Deyapp, Trina S. Deyapp, Robert E. Doan, Angela R. Emery, Estate of Juan Gonzales, Kathleen M. Fischer, Lesia J. Foerster, Aurelia Gallegos, Cristella M. Gallegos, Jose R. Gallegos, Martin A. Gallegos, Nickie Gallegos, Gallegos Family Trust, Carmen Gonzales, Florian Gonzales Jr., Susan M. Hammer, Fay L. Harris, John P. Harris, Arletta M. Hogan, Angela Hughes, Clifton M. Hughes, Mildred Hughes, Rebecca Hurd, Robert Hurd, Bonsall D. Johnson, Nathan G. Johnson, Wenda L. Johnson, Luis Lopez, Celia O. Lucero, Jose Salomon Lucero, Cecilia O Martinez, Diego R. Martinez, Estate of Rose Q. Martinez, Gerald G. Martinez, Higinio Martinez Jr., Tina D. Martinez, Brian T. Mello, Vicenta Neher, Lorraine T. Pacheco, Ruben Pacheco, Mary Phipps, Warren Phipps, Alex Rivas, Angelo E. Rivas, Anthony Rivas, Conrad L. Rivas, Maximiliano Rivas, Natasha Mattie Crusita Rivas, Presley D. Rivas, Michael D. Roberson, David Joe Sandoval Sr., Levi A. Sandoval, Rufina Gonzales Sandoval, Jo Myrle

Smith, Perry D. Smith, Floyd E. Smith & Edna E. Smith, Revocable Trust, Emma Torrez, Joseph Vicente Torrez III, Daphne Kim Tribble, Delfino J. Trujillo, Josefa Trujillo, Marcella Trujillo, Patricia C. Trujillo, Margaret Valdez, Tommy F. Valdez Jr., Ramon Vigil, Vigil Family Trust, Robert G. Wells, Deborah H. Williams, Andrea Woolridge, Kevin Woolridge

CHAMA TOWN DITCH (OSE NO. 967) **PRIORITY** **February 19, 1915**

Defendants: Orlando C. Beasley

CHAMA VALLEY DITCH **PRIORITY** **1893**

Defendants: Donald L. Gallegos Sr., Mary J. Gallegos, Leonard Jensen, Marilyn Jensen, Anne Marie Koontz, John Courtney Koontz, James W. Mundy, Susan J. Mundy, Joseph J. Piuma, Cumbres & Toltec Scenic Railroad Commission, Swag Corporation, Friends of the Cumbres & Toltec Scenic RR, Inc., Debra K. Zimbelman

CHAMA VALLEY DITCH NO. 1 **PRIORITY** **1890**

Defendants: Oso Ranch and Lodge, LLC, Alfred Unser.

CHAMA VALLEY DITCH NO. 3 **PRIORITY** **1890**

Defendants: Jicarilla Apache Nation.

TUCK CREEK DIVERSION NO. 1 **PRIORITY** **1900**

Defendants: Quinlan Ranches of NM LLC

UNNAMED DITCH NO. 4 **PRIORITY** **1890**

Defendants: Chama Troutstalkers, LLC

CHAMITA VALLEY DITCH (OSE No. 968) **PRIORITY** **February 19, 1915**

Defendants: William H. Albert, Chama Investments, Co., Chama Troutstalkers, LLC, Northern Rio Arriba Electric Co-Op, Victoria B. Gonzales, Dr. Pat Hale

VALLEY DITCH (OSE No. 1242) **PRIORITY** **September 27, 1918**

Defendants: Chama Troutstalkers, LLC

RANCH 101 DITCH (OSE No. 1241) **PRIORITY** **June 7, 1918**

Defendants: Jicarilla Apache Nation, Lawrence Family, LLC, Patricia Serna, Richard M. Serna, Daniel D. Shoats, Ellen J. Shoats, Tuoraey, LLC, Alfred Unser, Kevin Yearout, Lian Yearout

M-B DITCH (OSE No. 1974)

PRIORITY November 27, 1931

Defendants: Boyd Family Revocable Trust, Celine M. Brown, Orrin G. Brown, Herman Candelaria, Andrew Conder Jr., Cheryl Conder, Kenneth Conder, Peter J. Conder, Marvin R. Crane, Sandra A. Crane, Jeff M. Daggett, Maxine F. Daggett, Estate of Juan Gonzales, Russell Fink, Matthew M. Gallegos, Robert Gallegos Jr., Lydia J. Garcia, Napoleon R. Garcia, Carmen Gonzales, Florian Gonzales Jr., Juanita Gonzales, Rosalie Ann Gonzales, Elizabeth Ann Harris, Floyd Harris, Charles C. Hobbs, Andrew Hurd, Daniel Hurd, Puanani Kauaihilo, Robert R. Kissam, Melvin E. Kurth Jr., Los Campos de Chama, LLC, Betty M. Martin, Maria A. Martinez, Renee Martinez, James W. McElhaney, Maxine McElhaney, Julia A. Meston, Russell D. Meston, Michael Montañó, Peggy Montañó, Steve Montañó, Steven Montañó, June J. Overley Living Trust, Randy Pettingill, Trust, Johnny Rael, Michael J. Roundy, Dan Russom, Mary Russom, Jose G. Salazar, Mary Salazar, Victoria L. Skrondahl, Yvonne Torrez, Pedro & Rose Torrez Trust, Angie Valdez, Don Valdez, Estate of Carlotta Valdez, Estate of Maximilo Valdez, Vigil Family Trust, Susan L. Windeck

TRANSFERRED RIGHTS

<u>Move-to Location</u> <u>Defendants</u>	<u>OSE PERMIT</u>	<u>PRIORITY</u>
CHCV-001-0003 Mary Jean Miller	No. 1545 & 1699 into 1974-E	December 4, 1922
CHCV-001-0004 Jessie Fisher	No. 1545 & 1699 into 1974-E-A	December 4, 1922
CHCV-001-0005 Chama Valley Independent School District No. 19	No. 1545 & 1699 into 1974-F	December 4, 1922
CHCV-003-0001 Porter Family Trust	No. 1974-B (3)	November 27, 1931
CHCV-003-0002(B) Dustin Boyd	No. 1974-B & 1974-B (2)	November 27, 1931
CHCV-006-0001	No. 1545 into 1242 & 01792	December 4, 1922

Donald M. Graham
Janice Graham

CHCV-006-0002
Sky Mountain Resort
RV Park, LLC

No. 1545 into 1242 & 01792

December 4, 1922

Water rights on lands irrigated by the **Jicarilla Apache Nation** under an approved permit for the transfer of water rights issued by the Office of the State Engineer, or for water rights on lands irrigated from a pre-basin groundwater well located on the Jicarilla Apache Reservation and used for irrigation purposes, as described below:

<u>Subfile No.</u>	<u>Acres</u>	<u>Ditch and/or Well(s)</u>	<u>Priority Date</u>
CHCV-001-0006	92.5	Mound Well Willow Creek Well	March 24, 1964
	181.8	Little Willow Creek North Ditch	December 4, 1922
		Mound Well Willow Creek Well	March 24, 1964
	23.2	Little Willow Creek North Ditch	February 2, 1926
		Mound Well Willow Creek Well	March 24, 1964
CHCV-005-0005	9.0	Little Willow Creek South Ditch	August 1, 1902
	88.15	Vaughn Well No. 1	August 14, 1963
CHCV-006-0006	50.75	Vaughn Well No. 1	August 14, 1963
	5.10	Iron Spring Well	April 25, 1964
	24.2	Vaughn Well No. 1 Iron Spring Well	August 14, 1963
CHCV-008-0001	8.4	Bear Canyon Well	May 1, 1964

	160.6	Iron Spring Well Bear Canyon Well	April 25, 1964
CHCV-009-0001	88.26	Well RG-19060	February 17, 1970

You are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State's proposed determination of the priority date of your water rights, or the proposed priority date of the water rights for any other defendant using surface or underground water for irrigation purposes in Village of Chama Subsection of Section 7 of the Rio Chama Stream System ("Chama Village Subsection"). The priority dates described above will apply to all individual irrigation water rights associated with the ditches, wells, permits or licenses issued by the Office of the State Engineer as described above, unless you or other persons file objections. The priority dates for water rights described herein will also apply to a spring that serves as a source of water for irrigation purposes, and which is described in individual subfile orders filed with the Court.

In addition, you are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State's proposed determination of the irrigation water requirements for surface water irrigation use in the Chama Village Subsection for lands irrigated under pre-1907 ditches as described below:

- a. The weighted consumptive irrigation requirement (CIR) is 1.05 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 2.63 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 4.38 acre-feet per acre per annum.

The water rights which the above amounts apply are those irrigated by the Chama Town Ditch, Chama Valley Ditch, Chama Valley Ditch No. 1, Chama Valley Ditch No. 3 Tuck Creek Diversion No. 1 and

Unnamed Ditch No. 4, with the exception of any lands irrigated under a permit or license from the State Engineer as described below.

You are hereby notified that you are required to file an objection with the Court if you disagree with the State's proposed determination of the irrigation water requirements for irrigation use on lands in the Chama Village Subsection that are irrigated under a final license issued by the Office of the State Engineer, or under an approved permit for the transfer of irrigation water rights, as described below:

CHCV-001-0002: OSE License No. 967

- a. CIR = 1.05 ac-ft/ac/an.
- b. FDR = 2.0 ac-ft/ac/an.
- c. PDR = 3.33 ac-ft/ac/an.

Chamita Valley Ditch: OSE License No. 968

- a. CIR = 1.05 ac-ft/ac/an.
- b. FDR = 2.0 ac-ft/ac/an.
- c. PDR = 3.33 ac-ft/ac/an.

Valley Ditch: OSE License No. 1242

- a. CIR = 1.05 ac-ft/ac/an.
- b. FDR = 1.5 ac-ft/ac/an.
- c. PDR = 2.5 ac-ft/ac/an.

The above irrigation water requirements will apply to all lands irrigated by the Valley Ditch under OSE License No. 1242 (including lands transferred to the Valley Ditch under OSE No. 1545 into 1242 & 01792) with the exception of the 73.9 acres of land described below.

Valley Ditch: OSE License No. 1242

73.9 acres of land in Subfile CHCV-006-0005

- a. CIR = 1.0 ac-ft/ac/an.
- b. FDR = 1.0 ac-ft/ac/an.
- c. PDR = 1.67 ac-ft/ac/an.

A copy of a map prepared by the Office of the State Engineer showing the location of the 73.9 acres of lands described above is available for inspection at the Office of the State Engineer in Santa Fe.

Ranch 101 Ditch: OSE License No. 1241

- a. CIR = 1.05 ac-ft/ac/an.
- b. FDR = 1.5 ac-ft/ac/an.
- c. PDR = 2.5 ac-ft/ac/an.

M-B Ditch: OSE License No. 1974

- a. CIR = 1.05 ac-ft/ac/an.
- b. FDR = 1.5 ac-ft/ac/an.
- c. PDR = 2.5 ac-ft/ac/an.

The above irrigation water requirements will apply to all lands irrigated by the M-B Ditch under OSE License No.1974 with the exception of the lands in the locations described below.

M-B Ditch: OSE License No. 1974

3.4 acres of land in Subfile CHCV-003-0003
 0.1 acres of land in Subfile CHCV- 003-0004
 63.4 acres of land in Subfile CHCV-003-0024
 0.2 acres of land in Subfile CHCV-003-0025
 0.2 acres of land in Subfile CHCV-003-0026
 3.2 acres of land in Subfile CHCV-004-0002

- a. CIR = 1.0 ac-ft/ac/an.
- b. FDR = 1.0 ac-ft/ac/an.
- c. PDR = 1.67 ac-ft/ac/an.

A copy of a map prepared by the Office of the State Engineer showing the location of the lands described above is available for inspection at the Office of the State Engineer in Santa Fe.

TRANSFERRED RIGHTS

<u>Move-to Location</u>	<u>OSE PERMIT</u>	<u>AMOUNT OF WATER</u>
CHCV-001-0003	No. 1545 & 1699 into 1974-E	CIR = 1.05 ac-ft/ac/an FDR = 1.5 ac-ft/ac/an

		PDR = 2.5 ac-ft/ac/an
CHCV-001-0004	No. 1545 & 1699 into 1974-E-A	CIR = 1.05 ac-ft/ac/an FDR = 1.5 ac-ft/ac/an PDR = 2.5 ac-ft/ac/an
CHCV-001-0005	No. 1545 & 1699 into 1974-F	CIR = 1.05 ac-ft/ac/an FDR = 1.5 ac-ft/ac/an PDR = 2.5 ac-ft/ac/an
CHCV-003-0001	No. 1974-B (3)	CIR = 1.05 ac-ft/ac/an FDR = 1.5 ac-ft/ac/an PDR = 2.5 ac-ft/ac/an
CHCV-003-0002(B)	No. 1974-B & 1974-B (2)	CIR = 1.05 ac-ft/ac/an FDR = 1.5 ac-ft/ac/an PDR = 2.5 ac-ft/ac/an
CHCV-006-0001	No. 1545 into 1242 & 01792	CIR = 1.05 ac-ft/ac/an FDR = 1.5 ac-ft/ac/an PDR = 2.5 ac-ft/ac/an
CHCV-006-0002	No. 1545 into 1242 & 01792	CIR = 1.05 ac-ft/ac/an FDR = 1.5 ac-ft/ac/an PDR = 2.5 ac-ft/ac/an

Irrigation water use on lands irrigated by the **Jicarilla Apache Nation** under an approved permit for the transfer of water rights issued by the Office of the State Engineer, or irrigation water use on lands irrigated from pre-basin groundwater wells located on the Jicarilla Apache Reservation and used for irrigation purposes, as described below:

<u>Subfile No.</u>	<u>CIR</u>	<u>FDR</u>	<u>PDR</u>
CHCV-001-0006			
Groundwater	1.05 ac-ft/ac/an	2.63 ac-ft/ac/an*	not applicable
Surface water	1.05 ac-ft/ac/an	1.5 ac-ft/ac/an	2.5 ac-ft/ac/an
CHCV-005-0005			
Groundwater	1.05 ac-ft/ac/an	2.63 ac-ft/ac/an*	not applicable
Surface water	1.05 ac-ft/ac/an	1.5 ac-ft/ac/an	2.5 ac-ft/ac/an

CHCV-006-0006

Groundwater	1.05 ac-ft/ac/an	2.63 ac-ft/ac/an*	not applicable
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CHCV-008-0001

Groundwater	1.05 ac-ft/ac/an	2.63 ac-ft/ac/an*	not applicable
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CHCV-009-0001

Groundwater	1.05 ac-ft/ac/an	2.63 ac-ft/ac/an*	not applicable
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* measured at the
well

If you agree with the priority dates and irrigation water requirements described above, you do not need to take any action. If any objections are filed by any persons you may participate in the proceedings to resolve those objections. If no objections are filed, the Court will enter an order that recognizes the elements of the water rights for irrigation use in the Chama Village Subsection as described above. If you disagree, you must follow the instructions below.

This will be your only opportunity in these proceedings to object to the determination of priority dates or irrigation water requirements in the Chama Village Subsection. Subsequent *inter se* proceedings in the Chama Village Subsection will not include the opportunity to object to those determinations.

In cases where defendants in the Chama Village Subsection have previously agreed with the State on the priority dates for their water rights or the irrigation water requirements for their water rights, and those priority dates or irrigation water requirements have been incorporated into subfile orders entered by the Court, those priority dates or irrigation water requirements cannot be challenged by those defendants. Other persons with standing may however file objections.

IT IS THEREFORE ORDERED THAT if you object to any of the priority dates stated above, or to the irrigation water requirements in the Chama Village Subsection as stated above, you must file your objection with the Court, in person or by mail, **FOR RECEIPT NO LATER THAN AUGUST 1, 2013:**

United States District Court Clerk
333 Lomas Blvd. NW, Suite 270
Albuquerque, NM 87102

If you timely file an objection the Court will notify you of a mandatory scheduling and pretrial conference, where you will learn how objections will be heard. This will be your only opportunity to object to these elements of your water rights or any other water rights. If you fail to timely object and

attend the scheduling and pretrial conference you may not raise objections in the future.

If you have any questions, call or write:

Edward G. Newville
Special Assistant Attorney General
Office of State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102
(505) 867-7444 phone
(505) 867-2299 facsimile

or,

John W. Utton
Attorney for Asociación de Acéquias Norteñas de Rio Arriba
Sheehan & Sheehan, P.A.
P.O. Box 271
Albuquerque, NM 87103-0271
(505) 699-1445 telephone
(505) 842-8890 facsimile

MARTHA VÁZQUEZ
UNITED STATES DISTRICT JUDGE

Approved:

LORENZO F. GARCIA
UNITED STATES MAGISTRATE JUDGE